

## 2003 DRAFTING REQUEST

### Bill

Received: 07/28/2003

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Shirley Krug (608) 266-5813

By/Representing: herself

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous  
Criminal Law - sex offenses

Extra Copies: MGD

Submit via email: YES

Requester's email: Rep.Krug@legis.state.wi.us

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Placement of sexually violent persons and offenders at 6535 N. 51 St. in Milwaukee

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### Instructions:

See Attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 07/28/2003	csicilia 07/30/2003					State
/1			pgreensl 07/30/2003		mbarman 07/30/2003	lnorthro 09/24/2003	

FE Sent For:

At  
intro

<END>

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**<END>**

07/28/2003 09:13:22 AM

Page 1

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1?	rryan						
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1 cjs 7/30  
03 7/30  
pg 181 gr

FE Sent For:

&lt;END&gt;

Plc from Shirley Kne 7/17/03  
Responses to S-Note for LRB 2927/2

- ① Yes. on 1st issue in S-Note  
i.e. prohibit all types of offenders from  
living at location on N. 57th while  
in custody of DOC
- ② Wants to hear more on policy  
for not including language  
"encouraging Attic to sell
- ③ Separate into 2 dif. bills  
(2nd bill will be LRB 03-3030)  
(Equal protection raised in file for 03-3030)

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Plc to Rep. Kne 7/21/03 & 7/22/03

Discussed reasons for not encouraging action  
in statutes - no effect  
- Person directed to take such  
material out

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2927/2dn  
RLR:kjfrs

July 17, 2003

Representative Krug:

1. This bill prohibits DOC and DHFS from purchasing residential services provided at the building located on N. 51st Street. It also prohibits DHFS from placing a sexually violent person on supervised release at that location. Current law provides that as a condition of extended supervision, a sex offender may only live in a residence that DOC has approved. The bill therefore prohibits DOC from approving the building on N. 51st Street as a residence for a sex offender on extended probation. Current law does not require DOC to approve residences for offenders on extended supervision who are not sex offenders, or for offenders who are on parole or probation. So if DOC is not paying for the person's placement, under the bill, any offender on probation or parole, or any offender on extended supervision other than a sex offender may live at the building on N. 51st Street. Do you want the bill to prohibit all persons who are on extended supervision, probation, or parole from living at the location on N. 51st Street regardless of whether DOC pays for the placement and regardless of the offense the person committed?
2. I did not include a provision encouraging ATTIC to sell the property on N. 51st Street in Milwaukee, because such a provision would have no legal effect. The statutes only require, prohibit, or authorize actions.
3. Article IV of the Wisconsin Constitution provides that no act that contains a private or local measure may embrace more than one subject. This bill arguably contains two private or local measures. The first prohibits the state from purchasing services provided at a particular property (regardless of who owns the property) and the second prohibits the state from contracting for services with a particular business (ATTIC). If the bill is passed as an act and the act is found to embrace more than one subject, the provisions in the bill could be invalidated. You may therefore wish to request two bills rather than one.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

## Ryan, Robin

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**From:** Ryan, Robin  
**Sent:** July 24, 2003 3:52 PM  
**To:** Rep.Krug  
**Cc:** Little, Sharon  
**Subject:** Attic bills

Representative Krug:

I thought of another potential constitutional problem with the Attic bill as currently drafted. It is probably easier to discuss the issue in a telephone conversation, but I will at least present the issue here.

My concern is that a court may find that parts of the bill violate the equal protection clause. The bill prohibits placements at 6535 N. 51 st. In order for this prohibition to withstand a challenge, there must be a rational basis for prohibiting placements at this building. It usually doesn't take much to show a rational basis. Arguably in this case, the rational basis for prohibiting placements at 6535 N. 51 st. is to protect children residing in the group home nearby. However, if that is the basis for the prohibition, then why isolate 6535 N. 51st. rather than all buildings within a certain radius of the group home? One way to resolve this problem is to prohibit placements within a certain radius of this particular group home, or better yet, within a certain radius of any group home that provides services to sexually abused children.

If you choose to make the prohibition apply to placements within a certain radius of such group homes, then you may wish to rethink making the prohibition apply to residences for all persons on parole, extended supervision, or probation regardless of the offense for which they were convicted, because the constraint may make it extremely difficult for offenders to find housing. Further, prohibiting a person who committed theft from living near a group home doesn't further your goal of protecting people from sex offenders.

Please call me at 261-6927 when you have a chance to discuss this.

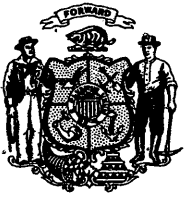
Thanks,  
Robin

P/C from Rep. Krug 7/25/03

Neighborhood already traumatized enough  
not concerned that Attic will challenge  
or that offenders who want to live  
at 6535 N. 51st St. will challenge  
so leave as is

Keep proms related to property regardless of  
who owns it.





State of Wisconsin  
2003 - 2004 LEGISLATURE

3030/1  
LRB-202712  
RLR:10/1/03

Wanted Soon

2003 BILL

SA ✓  
new CRs ✓

Inserts

Regen Cat.

prohibiting offenders and  
sexually violent persons  
from residing

1 AN ACT to create 46.036 (8), 301.08 (4), 302.116 (3) and 980.08 (5m) of the  
2 statutes; relating to: identifying residences for sexually violent persons on  
3 supervised release and prohibiting certain placements at the building located  
4 at 6535 N. 51st Street in the city of Milwaukee.

INS Anal →  
**Analysis by the Legislative Reference Bureau**

Under current law, a court may commit a sexually violent person (a person who has committed a sexually violent offense and has a mental disorder that makes it substantially probable that he or she will commit a future act of sexual violence) to the custody of the Department of Health and Family Services (DHFS). A sexually violent person who is committed to DHFS is initially institutionalized and may subsequently petition to be placed in the community on supervised release. If a court orders a sexually violent person placed on supervised release, DHFS must identify a residence for the person.

This bill prohibits DHFS from contracting with ATTIC Correctional Services, Inc., to search for or identify residences for sexually violent persons placed on supervised release. The bill also prohibits DHFS and the Department of Corrections (DOC) from purchasing residential services provided at the building located at 6535 N. 51st Street in the city of Milwaukee, prohibits DHFS from placing sexually violent persons on supervised release at that location, and prohibits DOC from approving that location as a residence for any sex offender on extended supervision.

**BILL**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 46.036 (8) of the statutes is created to read:

2        46.036 (8) The department may not purchase residential services that are  
3 provided in the building located at 6535 N. 51st Street in the city of Milwaukee.

4        **SECTION 2.** 301.08 (4) of the statutes is created to read:

5        301.08 (4) PROHIBITED PLACEMENT LOCATION. The department may not purchase  
6 residential services that are provided in the building located at 6535 N. 51st Street  
7 in the city of Milwaukee. *transitional housing*

8        **SECTION 3.** 302.116 (3) of the statutes is created to read:

9        302.116 (3) The department may not approve the building located at 6535 N.  
10 51st Street in the city of Milwaukee as a residence for a sex offender on extended  
11 supervision. *INS 2-7*

12        **SECTION 4.** 980.08 (5m) of the statutes is created to read:

13        980.08 (5m) (a) The department may not contract with ATTIC Correctional  
14 Services, Inc., to search for or identify a residential placement for a person for whom  
15 supervised release is authorized under this section. *INS 2-13*

16        (b) The department may not place *the* a person on supervised release at the  
17 building located at 6535 N. 51st Street in the city of Milwaukee.

18        **SECTION 5. Initial applicability.**

19        (1) The treatment of sections 46.036 (8) and 301.08 (4) of the statutes first  
20 applies to purchasing agreements made on the effective date of this subsection. ✓

**BILL**

1 (2) The treatment of sections 302.116 (3) and 980.08 (5m) (b) of the statutes first  
2 applies to placements made on the effective date of this subsection.

INS 3.2 → 3 (3) The treatment of section 980.08 (5m) (a) of the statutes first applies to  
4 residential placement searches initiated on the effective date of this subsection.

5 (END)

SA ✓  
new CP ✓

1

**Ins Anal:**

Under current law, a prison inmate who is released on parole or extended supervision is subject to conditions and rules of release that are established by the Department of Corrections (DOC) and, in the case of extended supervision, the court. If a person violates a condition of parole or extended supervision he or she may be reincarcerated. In some cases, DOC provides transitional housing to persons released on parole or extended supervision. A person who is placed on probation instead of serving a sentence for a crime is subject to conditions and rules of probation that are also established by DOC or the court. If a person violates a condition of probation, he or she may be required to serve a sentence. A sexually violent person who is committed to the custody of the Department of Health and Family Services (DHFS) and placed on supervised release is subject to conditions of release established by DHFS and the court that grants release. DHFS must locate, and the court must approve, a placement for a sexually violent person placed on supervised release. A sexually violent person who violates a condition of supervised release may be returned to a DHFS institution.

This bill prohibits DOC and DHFS from purchasing residential services provided at the building located at 6535 N. 51st Street in the city of Milwaukee. The bill also prohibits any person on extended supervision, parole, or probation, or any sexually violent person on supervised release from residing at that location as a condition of his or her release or probation.

2

3

**Ins 2-7:**

4

**SECTION 1.** 304.06 (1s) of the statutes is created to read:

5

304.06 (1s) As a condition of parole, a person released on parole under sub. (1),

6

S. ✓ S. ✓  
302.11, or 304.02 may not reside at the building located at 6535 N. 51st Street in the city of Milwaukee.

7

8

**SECTION 2.** 302.117 of the statutes is created to read:

9

**302.117 Prohibited residence for person on extended supervision.** As

10

a condition of extended supervision, a person may not reside at the building located

11

at 6535 N. 51st Street in the city of Milwaukee.

*Milwaukee*

12

**SECTION 3.** 973.09 (8) of the statutes is created to read:

(to move  
correct sequence)

1 973.09 (8) As a condition of probation, a probationer may not reside at the  
2 building located at 6535 N. 51st Street in the city of Milwaukee.

Milwaukee ✓

4 **Ins 2-13:**

5 No 9

6 The department may not propose and the court may not approve placement of  
7 the person at the building located at 6535 N. 51st Street in the city of Milwaukee,  
8 and, as a condition of supervised release, the person may not reside at that location.

of the  
Statutes ✓

9 **Ins 3-2:**


10 (2) The treatment of sections 304.06 (1s), 302.117, 973.09 (8), and 980.08 (5m)  
11 first applies to persons who do not reside at 6535 N. 51st Street in the city of  
12 Milwaukee on the effective date of this subsection.

13  
INS IA

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3030/iains  
RLR:.....

INS IA:

1 (no 9) a person who on the effective date of this subsection resides at 6535 N. 51st  
2 Street in the city of Milwaukee, on the date that the person discontinues residence  
3 at 6535 N. 51st Street in the city of Milwaukee, and first applies to a person who on  
4 the effective date of this subsection does not reside at 6535 N. 51st Street in the city  
5 of Milwaukee, on the effective date of this subsection. 

**Northrop, Lori**

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**From:** Little, Sharon  
**Sent:** Wednesday, September 24, 2003 3:56 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-3030/1 Topic: Placement of sexually violent persons and offenders at 6535 N. 51 St. in Milwaukee

It has been requested by <Little, Sharon> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3030/1 Topic: Placement of sexually violent persons and offenders at 6535 N. 51 St. in Milwaukee